

United States Magistrate Judge

Shirley Padmore Mensah

Courtroom 13S

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Requirements

1. Local and Federal Rules

Many answers to frequently asked questions are contained in the [Local Rules](#) of the [Eastern District of Missouri](#), the Federal Rules of [Civil](#), the Federal Rules of [Criminal](#) Procedure and the [Federal Rules of Evidence](#). All counsel and pro se parties are expected to know these rules and follow them. Frequent review of the rules is recommended because they are often amended.

2. Informal Matters

I do not have a set time for informal matters (minor issues such as deadline changes or other minor disputes), but most days I can usually be available. If you have an informal matter, please notify opposing counsel, ascertain opposing counsel's availability, and call my judicial assistant to schedule a time for an in-court or telephone conference. Most minor, agreed deadline changes can be handled in writing, by filing a motion to extend the deadline and stating that opposing counsel consents. I will rule on such consent motions as soon as possible. If you have an emergency motion that needs a formal hearing on the record, you should call my chambers to schedule a hearing.

I am always happy to handle Oaths of Admission of new attorneys. You may call my chambers to schedule a time for an Oath of Admission. I welcome, but do not require, an admitted attorney to introduce the new attorney.

3. Rule 16 Conferences in Civil Cases

Civil cases are usually set for Rule 16 conferences after all defendants have answered or filed motions in response to the complaint. If for some reason a party believes a conference should be sooner, that party should file a motion. Rule 16 conferences are conducted in person, and are usually held in chambers. When a party appears pro se, the Rule 16 conference is held in the courtroom, on the record. Out-of-town counsel may arrange to participate by conference call, but must notify chambers with contact information at least one business day prior to the scheduled conference. At the Rule 16 conference, you should be prepared to discuss the facts of your case and all other matters set out in the Rule 16 Order,

including settlement. Please do not send an unprepared substitute attorney or an attorney who cannot make a commitment regarding the calendar of trial counsel, as I expect all counsel to know the case and be prepared to discuss all issues, including changes to the proposed schedule and trial setting.

4. Scheduling and Status Conferences

Counsel may request a scheduling or status conference when the need arises by calling my chambers and setting up an appointment. If after entry of the Case Management Order counsel find they have a problem that is keeping the case from moving forward, or counsel are in agreement regarding an idea to move the case forward more efficiently, counsel may contact chambers and arrange a conference call to discuss the matter.

5. Case Management Orders in Civil and Criminal Cases

The deadlines set forth in the Civil and Criminal Case Management Orders will be strictly enforced. Modifications should be requested by filing an appropriate motion to amend and will be granted only upon a showing of exceptional circumstances.

6. Alternative Dispute Resolution (ADR)

I refer most civil cases to mediation. Please be prepared to discuss the appropriate timing for referral to mediation at the Rule 16 conference. When setting a date for mediation in the proposed schedule, counsel should consider what discovery they need in order to conduct a meaningful mediation conference. A list of the [Court's neutrals](#) and the [ADR procedures](#) can be found at <http://www.moed.uscourts.gov/>. Please note that once the case has been referred to ADR, those deadlines are binding and may only be extended by court order.

7. Discovery Disputes

Before filing any discovery-related motion, you must confer with opposing counsel and attempt to resolve the dispute, and in accordance with the relevant local rule, your motion must contain a certification that you have done so. Motions that do not contain the required certification will be denied without prejudice. The requirement that the parties confer means that the moving party must actually speak to opposing counsel, in person or by telephone. If opposing counsel will not return your calls when you attempt to resolve the matter, you should detail those efforts in your certification with the motion. I expect the parties to make a good faith effort to resolve the dispute prior to filing a discovery-related motion.

When you cannot resolve legitimate disputes, and must file motions, I will either set the motions for hearing or rule on the papers, depending on what I think is appropriate after I have reviewed the motions. If you desire to have a hearing on the discovery motion, you should note that request in your motion or memorandum and, once the filings are complete, contact chambers to request a hearing. If you have an emergency, you should contact chambers and arrange a preliminary telephone conference.

8. Courtesy Copies of Dispositive Motions and Pretrial Compliance Materials.

Parties shall submit a paper and electronic courtesy copy to chambers of (1) any motions to dismiss, motions for judgment on the pleadings, or motions for summary judgment, together with the

memorandum in support and any exhibits; (2) any opposition memorandum, including exhibits; (3) any reply memorandum in support, including exhibits; and (4) all pretrial compliance materials. Courtesy copies may be mailed or hand-delivered to chambers at 111 South Tenth Street, Suite 13-S, St. Louis, Missouri 63102.

9. Sealed Documents

Attorneys are referred to the provisions of E.D.Mo. Local Rule 13.05 concerning sealed documents and files.

10. Final Pretrial Conferences

If your case is still on the docket two weeks prior to the scheduled trial date, you will be contacted by chambers to schedule a final pretrial conference. I will typically hold final pretrial conferences two or three business days prior to the scheduled trial date. Counsel should be prepared at the final pretrial conference to argue any motions *in limine*, discuss any evidentiary problems and scheduling issues. We will put any necessary argument and all rulings on the record.

11. Jury Instructions

The 8th Circuit Model Instructions should be used when possible. The basic introductory and boilerplate instructions must be based on the 8th Circuit Model Instructions. If instructions from any other source are proffered, they must be accompanied by case authority.

Parties are required to meet and confer regarding jury instructions and whenever possible submit one package of jury instructions to the court on behalf of all the parties. Parties shall submit a "clean" copy and a "dirty" copy of each instruction proffered. A "clean" copy for the jury will reflect only "Instruction No. ____" at the top with no further explanatory comments.

The parties shall also submit their proffered jury instructions to the Court in Microsoft Word or other electronic format by e-mail to my Judicial Assistant, Sally Keasler at the following e-mail address: sally_keasler@moed.uscourts.gov.

12. Available Courtroom Technology

The Court has evidence presentation equipment available, including an evidence camera (e.g., ELMO), VCR, DVD, monitors, and hook-ups for computer stored evidence or computer presentation. An explanation on the use of this equipment is available on the Court's website at <http://www.moed.uscourts.gov> under [Courtroom Technology](#). Interested counsel should call the Case Management Team in the Clerk's office to schedule training before trial. Training usually takes no more than 30 minutes, and gives you the opportunity to get comfortable with the equipment before trial. No training will be provided on the day of trial. If you intend to use your computer with the Court's evidence presentation system, you must confer with the Clerk's office before trial to be sure your settings and connections are appropriate for our system. The Court does not provide equipment to play an audio tape; you will need to bring your own tape player.

13. Voir Dire

Before the case is called, counsel must supply the Court with a joint brief statement of the nature of the case to be read to panel members during voir dire. Counsel are expected to agree on this statement, which should be phrased in neutral terms.

Counsel will be provided with a jury panel list as the jury arrives in the courtroom. The list contains the names, employer, former employer, occupation, spouse's employer and occupation, and the number of employees the prospective juror supervises in the work force. The list also contains the municipality in which the juror lives. The list must be returned to the deputy clerk after the jury is selected.

I will open voir dire by explaining its purpose and describing the voir dire procedure to the jury. I may ask a few basic introductory questions of the panel such as prior jury service, length of the trial, etc. At the request of counsel, I will also inquire into any specific area relevant to the lawsuit. Each party must provide me with a list of potential witnesses the morning of trial, so that I may ask if the potential jurors know any of the potential witnesses. Finally, I will read the brief stipulated statement of the nature of the case prepared by counsel as part of the pretrial package.

Counsel will be allowed to conduct general voir dire for no more than thirty minutes. After all questioning has been completed, the venire panel will be removed from the courtroom and I will immediately ask for challenges for cause. No challenges for cause or statements that the panel is acceptable may be made in front of the jury panel. After any persons are stricken for cause, the parties will make their peremptory challenges.

14. Trial

a. Time of Trial: Times for starting and adjourning the trial day will be announced at the start of trial. Court will begin promptly to avoid keeping the jury waiting. In particular, counsel are discouraged from raising preliminary matters at the start of the trial day, when the jury and all others are ready to proceed. The Court will be available to resolve preliminary matters 30 minutes prior to the scheduled start of the trial day, or during the lunch break, or at the conclusion of the trial day.

b. Opening Statements: You may generally use exhibits in your opening statement so long as you have consent from opposing counsel and advise me in advance.

c. Evidentiary Objections: No evidentiary objections shall be argued in the presence of the jury. There will be no speaking objections. Counsel must state the legal basis for their objections in a word or, at most, a phrase without elaboration or argument (unless called to the bench). Bench conferences during trial are discouraged. For purposes of "protecting the record" and assisting the Court of Appeals, counsel may explain their positions and the Court may explain its ruling on the record after the jury has been excused for a scheduled break or lunch.

d. Recross: Recross is not allowed as a matter of right. Recross is only allowed if something new is brought out on redirect.

e. Closing arguments: Twenty minutes is the presumptive time limit. The clerk will provide you with a warning if you request.

15. Courtroom Decorum

a. Please notify the Deputy Clerk upon arrival and introduce additional counsel, support staff and parties.

b. Please stand when the jury enters the courtroom; stand at all times when speaking. No eating, drinking (other than water), gum chewing or audible beepers or watches are allowed. Cell phones and other personal electronic devices should be turned off. Please tell your clients and witnesses these rules.

c. Counsel shall treat all court employees, each other and all witnesses, including adverse witnesses, professionally and courteously. All witnesses must be addressed by their last names with appropriate titles, and please advise witnesses not to address counsel by their first names. Only one lawyer per party may question a particular witness.

d. Children are not allowed as spectators unless they are accompanied by an adult seated with them in the spectators' area. A party to the suit (defendant, attorney, case agent, etc.) cannot qualify as the attending adult.

e. All statements by counsel should be directed to the Court and not to opposing counsel.

f. Counsel shall disclose the identity and order of witnesses as far in advance as possible but in no event less than 24 hours before the beginning of the trial day on which the witnesses are to be called.

g. Unless otherwise stipulated, examining counsel must show each exhibit to opposing counsel prior to showing it to a witness. Demonstrative and summary exhibits must be shown to opposing counsel in advance of trial, even if not offered into evidence. All exhibits should be marked in advance.

h. Counsel should stand for all objections, and state the legal basis for your objection without argument or elaboration. Counsel should instruct their witnesses not to answer a question while an objection is pending. Non-examining counsel should remain seated during witness examination unless standing to make an objection.